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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

TAYLOR, BARRY W

ART UNIT PAPER NUMBER

2617

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/760,537

Applicant(s)

SANCHEZ, JAVIER

Examiner

Barry W. Taylor

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 2617

DETAILED ACTION

The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-2 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki (6,208,861).

Regarding claim 5. Suzuki teaches a mobile terminal (figure 2), comprising:

a radio communication module (105 figure 2),

a central computing unit (108 figure 2),

a plurality of data processing software components designed to optimize operational performance of the mobile terminal (see S203, S204, S205, S206 in figures 3 and 5, col. 2 lines 15-64, col. 4 lines 10-56, col. 5 lines 9-21),

a communication interface designed to capture the traveling speed of the mobile terminal from an external source (104 figure 2); and

a command module designed to distribute the captured traveling speed to each of the data processing software components (see values HIGH, MIDDLE, LOW and ZERO in figures 3 and 5 distributed to Software modules S203, S204, S205, S206).

Regarding claim 6. Suzuki teaches means for wirelessly receiving traveling speed of mobile terminal (col. 2 lines 15-64, col.3 line 42 – col. 4 line 30).

Regarding claim 1. Method claim 1 is rejected for the same reasons as apparatus claim 5 since the recited apparatus would perform the claimed method steps.

Regarding claim 2. Suzuki teaches wherein the captured traveling speed is distributed according to nature of processing of each data processing software component (see nature of SHORT or MIDDLE or LONG period in figure 3) and value of the traveling speed (see value of HIGH, MIDDLE and LOW in figure 3).

Regarding claim 4. Suzuki teaches the traveling speed is detected automatically in real time by the mobile terminal (see 104 figure 2).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2 and 4-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Redi (6,512,935).

Regarding claim 5. Redi teaches a mobile terminal (figure 2), comprising:

a radio communication module (150 figure 2),

a central computing unit (130 figure 2),

a plurality of data processing software components designed to optimize operational performance of the mobile terminal (see 202, 216 and 307 in figure 4);

a communication interface designed to capture the traveling speed of the mobile terminal from an external source (170 figure 2); and

a command module designed to distribute the captured traveling speed to each of the data processing software components (col. 6 line 18 – col. 7 line 21).

Regarding claim 6. Redi teaches means for wirelessly receiving traveling speed of mobile terminal (170 figure 2).

Regarding claim 1. Method claim 1 is rejected for the same reasons as apparatus claim 5 since the recited apparatus would perform the claimed method steps.

Regarding claim 2. Redi teaches wherein the captured traveling speed is distributed according to nature of processing of each data processing software component and value of the traveling speed (see figure 4 and col. 6 line 18 – col. 7 line 21).

Regarding claim 4. Redi teaches the traveling speed is detected automatically in real time by the mobile terminal (see 170 figure 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Redi (6,512,935) in view of Ito (6,542,471).

Regarding claim 3. Redi does not explicitly show manually capturing the traveling speed.

Ito teaches the speed of mobile object obtained from manual position of a gear shift lever (col. 13 line 67 – col. 14 line 11) because it is very difficult to distinguish between when pedestrian is standing and when pedestrian riding in a fast moving car (col. 1 line 66 – col. 2 line 30).

It would have been obvious for any one of ordinary skill in the art at the time of invention to utilize the teachings of Ito into the teachings of Redi in order to allow pedestrians to use their mobile phones even when their car is moving.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Redi (6,512,935) in view of Aoki et al (2001/0044315).

Regarding claim 7. Redi does not show the transmitting traveling speed to a base station.

Aoki also teaches a radio communication system using variable packet length wherein mobile sends traveling speed to a base station (see last three lines of claims 1, 2 and 26) thereby detecting a mobile's speed more accurately (paragraph 0055) without using special and expensive structures (paragraph 0009).

It would have been obvious for any one of ordinary skill in the art at the time of invention to utilize the teachings of Aoki into the teachings of Redi providing for a more accurate and less expensive system for determining speed of mobile unit.

Response to Arguments

5. Applicant's arguments filed 1/31/06 have been fully considered but they are not persuasive.

a) Regarding Applicants remark at the bottom of page 5 wherein Applicants contend that Suzuki is seen to function at an entirely different level from the invention and does not teach (or suggest) inclusion of "plurality of data processing software components designed to optimize operational performance of said mobile terminal".

The Examiner disagrees because Suzuki teaches a plurality of data processing software components (S203, S204, S205, S206 in figures 3 and 5) which are feed velocity information (see $V(t)$ in figures 3 and 5) thereby saving on battery power (col. 4 line 29) which reads on Applicants vague claim language of "optimize operational performance".

b) Applicants argue that Suzuki does not teach the velocity information being distributed in any particular way (see last four lines on page 5).

The Examiner respectfully disagrees. Suzuki teaches wherein the captured traveling speed is distributed according to nature of processing of each data processing software component (see nature of SHORT or MIDDLE or LONG period in figure 3). For example, figure 3 shows if speed is fast then supply to S203, if average speed then supply to S204 and if slow speed then supply S205.

c) Applicants argue that Redi fails to teach "plurality of data processing software components designed to optimize operational performance of said mobile terminal" (see last paragraph on page 6).

The Examiner disagrees. Redi also teaches motion rate supplied to different data processing software components (see 202, 216 and 307 in figure 4) so as to save power, reduce network overhead transmissions which also reads on Applicants general claim language “optimize operational performance”.

d) Applicants further argue that Redi does not teach distributing motion rate in any particular way (see second paragraph on page 6).

The Examiner notes that independent claims do not require any particular way. Instead, velocity information is simply feed to software routines to “optimize operation performance”. Furthermore, the Examiner also directs Applicants attention to column 8 lines 1-7 wherein the motion rates may be replaced by continuous motion rate values and software modules use the continuous motion rates to adjust parameters.

e) Applicants argue that it is unclear how determining speed from a gearshift position as taught by Ito has anything to do with the subject matter of dependent claim 3 (see middle of page 7).

The Examiner notes that Redi does not explicitly show manually capturing the traveling speed (see figure 2). However, Redi does show inputs from motors, sensors, GPS, etc. (see left side figure 2). Realizing this and the fact that Ito teaches the speed of mobile object obtained from manual position of a gear shift lever (col. 13 line 67 – col. 14 line 11) because it is very difficult to distinguish between when pedestrian is standing and when pedestrian riding in a fast moving car (col. 1 line 66 – col. 2 line 30). It would have been obvious for any one of ordinary skill in the art at the time of invention to

utilize the teachings of Ito into the teachings of Redi in order to allow pedestrians to use their mobile phones even when their car is moving.

Conclusion

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

---(6,668,172) Yoshimura also teaches speed is fed to data processing software components (see items 51, 52 and 53 in figure 4) thereby improving operational performance.

---(6,490,460) Soliman also teaches velocity feed to software routines to dynamically adjust power (title, abstract, figure 1, col. 1 lines 14-18, col. 2 lines 13-17, column 6, col. 9 lines 34-37, col. 9 lines 50-53, col. 10 lines 10-14).

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry W. Taylor, telephone number (571) 272-7509, who is available Monday-Thursday, 6:30am to 5pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost, can be reached at (571) 272-7872. The central facsimile phone number for this group is **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (571) 272-2600, the 2600 Customer Service telephone number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Centralized Delivery Policy: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the central fax number (571-273-8300).

Barry W. Taylor
Art Unit 2617


BARRY TAYLOR
PRIMARY EXAMINER